ALAKANUK TRIBAL COUNCIL

CONSTITUTION

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CONSTITUTION
Of The
Native Village of Alakanuk

PREAMBLE

We, the Alakanuk Tribal People, assert our freedom as a sovereign people in a historic relationship with the United States of America, in creating this Tribal Constitution. We adopt this Constitution to exercise the Tribe's inherent sovereign rights and powers in promoting the well-being and unity of this and succeeding generations, to affirm our faith in fundamental Native rights and traditions, and to promote our Tribe's social, cultural, economic and political progress. We adopt this Constitution under the inherent sovereign authority of our Tribe.

ARTICLE 1 – NAME

The name of this Yup'ik tribe shall be the Alakanuk Tribe, previously known as the Native Village of Alakanuk.

ARTICLE 2 – JURISDICTION

The jurisdiction of the Alakanuk Tribe shall extend over governmental processes internal to the Tribe and over matters arising:

1. In the Alakanuk Tribe's Indian country; and/or
2. Over all tribal members within or outside Indian country; and/or
3. Over all persons and entities who entered into consensual relations with the Tribe or tribal members and whose activities affect the political integrity, economic security, or health and welfare of the tribal members; and/or
4. Over any matters so delegated by Congress

ARTICLE 3 – MEMBERSHIP

Section 1. Base Member Roll. The base membership of the Alakanuk Tribe shall consist of all Alaska Natives whose names appear on the base membership roll adopted by the Alakanuk Tribal Council at the passage of this Constitution, provided that the Council may make additions and corrections to the base membership roll within two years following the adoption of this Constitution.

Section 2. Descendents of Members. Lineal descendents of members on the base membership roll are automatically eligible to be members of the Alakanuk Tribe subject to the provisions of this Constitution and to ordinances enacted pursuant to this

Constitution. Although formal enrollment is encouraged, lineal descendents under the age of 18 shall be tribal members, regardless of whether or not they are formally enrolled. If they are not already formally enrolled, lineal descendents over 18 shall formally enroll to be members of the Alakanuk Tribe.

Section 3. – Dual Enrollment. Dual enrollment is not permitted except for minor children under 18 years of age.

Section 4. – Adoption of Members. The Tribal Council shall have the option to adopt Alaska Natives who set up residence in Alakanuk but not descendents of members listed on the base roll, according to the provisions of an enrollment ordinance.

Section 5. – Membership and Enrollment Ordinances. The Tribal Council shall have the power to enact ordinances and resolutions, not inconsistent with this Constitution, prescribing rules and regulations governing membership, including application and appeal procedures, dual membership, maintenance of the membership roll, loss of membership, disenrollment, relinquishment of membership, or by tribal ordinance.

ARTICLE 4 – GOVERNING BODY

Section 1. – Name. The governing body of the Alakanuk Tribe shall be the Alakanuk Tribal Council, also referred to as the Council or Tribal Council in this Constitution. The Council shall represent the Tribe and shall exercise the powers of the tribe cited this Constitution unless otherwise provided by this Constitution or by tribal ordinance.

Section 2. – Composition. The Alakanuk Tribal Council shall consist of seven (7) elected tribal members. All council members shall be entitled to vote, except in cases of conflict of interest.

Section 3. – Officers, Positions and Seats on the Council. The Officers of the Council shall be tribal member residents of the Village of Alakanuk. The President, Vice-President, and Secretary shall be elected by the council following the general election, at its first held regular meeting. The Officers shall be residents of Alakanuk, and shall forfeit their positions if they move from the Village of Alakanuk.

Section 4. – Vacancies. In the event of a vacancy among the Council, the Council shall appoint a tribal member to serve the remainder of the term for the seat to which they are appointed.

Section 5. – Qualifications for Tribal Council Positions. Qualifications on the Council shall be tribal members who are 18 years of age or older, and who have resided in Alakanuk for at least the one year immediately preceding the election.

Section 6. – Quorum. Four (4) Council members shall constitute a quorum for the transaction of business at any meetings of the Tribal Council unless a smaller number is specifically required by this Constitution or by tribal ordinance.

Section 7. – Terms of Office. There shall be staggered terms from 1 to 3 years. They are as follows:

1. Seats **C** and **F** shall be one (1) year term.
2. Seats **B** and **E** shall be two (2) year terms.
3. Seats **A, D** and **G** shall be a three (3) year terms.

Section 8. – Conflict of Interest. No Council member shall vote on any matter, including but not limited to employment contracts, project funding, project allocations and appointments to tribal committees in which he/she has a direct significant personal interest. A personal interest also includes involvement of his/her spouse or significant other, or children. Council members present when such an issue is decided shall reveal such conflict prior to any vote, and shall abstain from voting.

ARTICLE 5 – DUTIES OF OFFICERS

Section 1. Assuming Duties. Newly elected officers shall assume their duties immediately after being sworn-in as council members.

Section 2. Chain of Command and Decision Making. During meetings, the Council shall make decisions by consensus when possible and by majority vote when consensus is not possible. The chain of command for chairing Council meetings shall be the Vice-President when the President is not available, the Secretary when the President and Vice-President are not available to chair the meetings. Checks signed in the regular course of business requires two (2) signatures of whom shall be tribal council members.

ARTICLE 6 – MEETINGS

Section 1. Regular Meetings of the Tribal Council. Regular meetings of the Council shall be held first Tuesday of every month at either the Community Hall or Tribal Office building. The time and date shall be designated by the Council. Minutes shall be taken at all regular meetings of the Council. All regular meetings shall be open to the general tribal membership.

Section 2. Special Tribal Council Meetings. Any member of the Council shall call a special tribal council meetings at least one week in advance notice to resident tribal members. All special called meetings shall be open to the general tribal membership.

Section 3. Notice for all Meetings. Notice of regular and special meetings of the Alakanuk Tribal Council shall be posted at least one week prior to meetings. The length

of notification required may be specified by this Constitution or by tribal ordinance for specific purposes that may differ from this one week requirement.

Section 4. Emergency Tribal Council Meetings. The Council may meet for an emergency meeting without notice when emergency circumstances warrant such a meeting. Only emergency business may be taken up at emergency meetings.

Section 5. Executive Session of the Tribal Council. The Alakanuk Tribal Council may move to meet in a closed executive session during regular, special or emergency meetings of the Council when the subject matter concerns child welfare, personnel, litigation, and other matters made confidential by tribal ordinance. THE Council shall not go into executive session until all other business for the meeting is complete.

Section 6. Tribal Membership Meetings

A. **Council Calling Tribal Membership Meetings.** Tribal membership meetings may be called by an affirmative vote of at least four (4) tribal council members.

B. **Tribal Members Calling Tribal Membership Meetings.** Tribal membership meetings may also be called by the tribal membership, through a petition signed by at least 75% of the qualified resident tribal voters.

C. **Quorum for Tribal Membership Meetings.** A quorum for a tribal membership meeting where a decision or policy are being made, shall require 75% of the resident tribal voters.

D. **Notice for Tribal Membership Meetings.** Notice for tribal membership meetings shall be mailed out at least thirty (30) days in advance, and posted in public places at least two (2) weeks prior to such meetings, unless a different time period is specifically required by this Constitution or by tribal ordinance.

ARTICLE 7 – REMOVAL, RECALL, FORFEITURE AND VACANCIES

Section 1. Removal. Any elected members of the Council found guilty by the Council of neglect of duty, gross misconduct in office, or an offense involving dishonesty may be removed from office by the Council by at least four (4) members voting in favor by secret ballot, provided, that such members shall first be given ten (10) days notice in writing of the charges against him/her and be given an opportunity to answer such charges before the Council at an open meeting of the Council. If the person subject to removal fails to appear before the Council, the Council may proceed in making a decision. No person shall preside over a meeting at which his/her removal is being considered. All questions concerning removal under this Section shall be resolved by the Council and decision of the Council shall be final.

Section 2. Recall. Any member of the Alakanuk Tribal Council may be recalled by the tribal voters through a petition and election process. A valid petition requesting such recall signed by at least 75% of the resident tribal voters of Alakanuk, shall be presented to the Council. The Council shall call a special election to consider the recall of the named Council member within thirty (30) days upon receiving the petition, in accordance with Article 8, Section 4. If the majority of the voters vote in favor of the recall, the official shall be removed. No official may be subjected to recall proceedings for the same incident more than once in the course of his/her term. If the Council fails to call a special election to consider the recall, the tribal membership may hold a tribal membership meeting to conduct such business, provided that a quorum be established. Circulating a new petition to call such a meeting shall not be required, but notice shall be posted in public places at least thirty (30) days in advance according to Article 6, Section 3 of this Constitution.

Section 3. Forfeiture. Any member of the Tribal Council who submits a written resignation, or is convicted of a felony involving dishonesty or moral turpitude while in office, shall automatically forfeit his/her office. In cases where a Council member is absent from three (3) successive regular meetings of the Tribal Council without notifying the Tribal Council office prior to the meeting, the Council may declare his/her seat forfeited after a warning is issued upon the second absence.

ARTICLE 8 – ELECTIONS

Section 1. Voter Qualifications. Any resident tribal member of the Alakanuk Tribe, eighteen (18) years of age or older, shall be qualified to vote. No person shall be a candidate for more than one position. No potential candidate must hold a seat with the Alakanuk City Council due to Conflict of Interest.

Section 2. General Guidelines for Elections. All elections shall be conducted by secret balloting. The outcome of an election shall be determined by a simple majority of the qualified voters casting their votes during the election unless otherwise specified by this Constitution or by tribal ordinance.

Section 3. Tribal Council Elections. Elections for Tribal Council positions shall be held in October In Alakanuk, provided that the first election following the adoption of this Constitution shall take place immediately and the length of the terms shall be marked from the following October. The Council shall set the date and shall give at least eight (8) weeks notice of such elections with information about the nomination process. Notices shall be posted in public places throughout the village. If the Council fails to hold elections in October, the tribal membership may meet to conduct an election under the terms of Article 6, Section 6 of this Constitution.

Section 4. Special Elections. The Council may, by resolution, call a special election for the purposes of deciding a referendum, initiative, or recall, upon giving at least four (4) weeks notice to the tribal members. Notice shall be posted in public places. Special

elections may take place either through a meeting format or through polling hours. Absentee ballots may be made available to resident tribal voters one (1) week prior to special elections.

Section 5. Election Committee. The Council shall appoint an election committee of at least two (2) adults to supervise, administer, and conduct all tribal elections. The election committee shall certify the election of tribal officials. In elections for tribal council positions, no member of the election committee shall, at the same time, be a member of the Council or a candidate for a position on the Council.

Section 6. Election Ordinance. An election ordinance, consistent with this Constitution, shall be adopted by the Council which shall set forth the procedures to be followed in conducting each of the various types of elections called for in this Constitution.

ARTICLE 9 – POWERS OF THE ALAKANUK TRIBAL COUNCIL

Section 1. General Powers. Except as specifically limited by this Constitution or by tribal ordinance, the powers of the Tribe shall be exercised by the Council. The powers shall include all the inherent powers of a federally recognized tribal government which do not violate federal law, including but not limited to those specified in this Article.

Section 2. Internal Procedures. Consistent with this Constitution, the Council may enact ordinances to govern its internal procedures and organization and to further define the duties of the tribal officers.

Section 3. Tribal Council Powers. In addition to all powers vested in the Tribe or Council by existing law and this Constitution, the Tribe acting through the Council, shall have the following powers:

- **A.** To consult, negotiate, contract, oversee, or conclude agreements with and make recommendations to federal, state, local, and tribal governments on activities which may affect the Alakanuk Tribe.
- **B.** To promote and protect the peace, health, education, and general welfare of the members of the Tribe, and to administer services that contribute to the social and economic development of the Tribe and its members.
- **C.** To levy and collect taxes, fees, and assessments for Tribal purposes.
- **D.** To encourage, guard and foster Tribal cultural practices of the Alakanuk people, including the arts, crafts, religion, language and customs of the Native people of Alakanuk.
- **E.** To prevent the sale, disposition, lease or encumbrance of tribal lands, interest in lands, or other tribal assets without the consent of the Alakanuk Tribe.
- **F.** Except as limited by Article 10 of this Constitution, to manage, sell, lease, exchange, acquire, or otherwise deal with tribal or other property.

G. To acquire property and accept gifts.

H. To administer tribal assets including funds and manage all economic affairs and enterprises of the tribe.

I. To engage in tribal economic development enterprises for the benefit of tribal members.

J. To provide for the maintenance of law and order and the administration of justice, including the establishment of appropriate tribal courts or other judicial bodies.

K. To charter enterprises, corporations, and associations for the benefit of tribal members.

L. To enact ordinances consistent with this Constitution for the conduct and administration of all tribal functions.

M. To regulate inheritance among members whether by intestacy or otherwise.

N. To administer any funds within the control of the Tribe.

O. To regulate child custody and other domestic relations among members.

P. To protect and preserve the wildlife and natural resources within the area under the jurisdiction of the Tribe or upon which its members rely for subsistence.

Q. To regulate and control the use of natural resources within the area under the jurisdiction of the Tribe, or which otherwise affect the health, safety or economic well-being of the Tribe or its members.

R. To employ legal counsel, the choice of counsel, and fixing of fees to be subject to the approval of Secretary of the Interior or his authorized representative so long as such approval is required by federal law.

S. To join/ or charter housing authorities

T. To protect members' rights in personal property.

U. To zone, exercise the power of eminent domain and otherwise regulate all land use within those areas under the jurisdiction of the Tribe.

V. To enact ordinances, procedures and regulations necessary to give effect to any provision of this Constitution and to exercise any power not prohibited by federal law.

W. To approve or disapprove the hiring of any employee in any field of work which directly or indirectly affects the tribe or a tribal member.

Section 4. Omissions. Any rights and powers vested in the Alakanuk Tribe, but not expressly referred to in this Constitution shall not be lost by reason of their omission, but may be exercised by the Council unless expressly prohibited by this Constitution.

ARTICLE 10 – POWERS RESERVED TO MEMBERSHIP

Section 1. Tribal Lands. The following powers are specifically reserved to the qualified voters of the Alakanuk Tribe acting through a general tribal membership meeting or a properly called election:

(a) No lands or interests in lands owned by the Tribe may be sold, leased for longer than ten (10) years, encumbered or disposed of without an affirmative vote of at least 75% of the resident voters

(b) Nothing in this article shall prohibit the Tribal Council from establishing and administering a tribal land assignment program as established by ordinance.

ARTICLE 11 – POPULAR PARTICIPATION IN GOVERNMENT

Section 1. Initiative. The qualified voters of the Alakanuk Tribe shall have the right to propose and repeal ordinances and resolutions not inconsistent with this Constitution, through a valid petition signed by at least 75% of the resident tribal voters. The petitions shall be submitted to the Tribal Council. The Council shall then call an election to be conducted by the election committee no later than thirty (30) days after the receipt of the petition. If the Council fails to act on the petition, the ordinance or resolution may be brought before a tribal membership meeting. An affirmative vote by a majority of qualified voters at a tribal membership meeting where a quorum has been established, and notification of resident tribal members has occurred, shall be required to adopt or repeal such ordinances or resolutions.

Section 2. Referendum. The Council, by an affirmative vote of at least four (40 of its members, may refer issues to the tribal membership in a tribal election. Such an election shall be conducted by the election committee within sixty (60) days of such Council decision. An affirmative vote by a majority of the eligible voters at a tribal membership meeting where a quorum is established shall be required to determine the Tribe's position on the issue.

Section 3. Initiative and Referendum Decisions. The decisions of the voters in both initiative and referendum elections shall be binding on the Council and shall remain in full force until amended or rescinded by subsequent action of the voters or expires by its own terms.

ARTICLE 12 – RIGHTS OF MEMBERS

Section 1. Access to Tribal Records. Tribal members shall have the right to review all tribal records, including financial records, during office hours in accordance with procedures established by the Council, except in child welfare cases, tribal enrollment records, litigation, personnel and confidential issues.

Section 2. Open Tribal Council Meetings. Tribal members have the right to be present at all Council meetings except during executive sessions of the Council.

Section 3. Indian Civil Rights. The Tribe shall provide to all persons within its jurisdiction the rights guaranteed by the Indian Civil Rights Act of 1968 as amended, enforceable by the Alakanuk Tribal Council. In summary, the tribal government shall:

(1) Not prohibit the free exercise of speech, press, religion, or rights of the people to assemble peacefully or file grievances against the tribal government.
(2) Not allow unreasonable search and seizure or issue search warrants without probable cause.
(3) Not try anyone for the same offense twice.
(4) Not make any person testify against him/her in a criminal latter.
(5) Not take private property for public use without paying he own the fair market value.
(6) Not deny a person the right to a speedy trial. A speedy trial is generally assumed to be trial within ninety (90) days or less. The accused person must be informed of the nature of the crime he/she is accused of, told about the witnesses against him/her, be allowed to have witnesses testify in his/her favor and be allowed a lawyer at his/her own expense.
(7) Not impose excessive bail or fines, nor impose cruel or unusual punishments.
(8) Give all persons equal protection under tribal laws.
(9) Not pronounce anyone guilty of a crime or civil violation without a fair trial. The tribal government shall not pass an ordinance and charge a person with a violation of that ordinance or change penalties, after an incident (Ex Post Facto).
(10) Provide anyone accused of an offense punishable by jail time the right to a trial by jury of no less than six (6) persons.

ARTICLE 13 – SOVEREIGN IMMUNITY OF THE ALAKANUK TRIBE

Section 1. Waivers of Sovereign Immunity. Nothing in this Constitution shall be deemed, interpreted or construed to be a waiver of any immunity from suit or execution against tribal property that the Alakanuk Tribe possesses under tribal, state, or federal law, provided however, that persons subject to the jurisdiction of the Tribe may bring claims against the Tribe in the Alakanuk Tribal Court, arising under the terms of the Indian Civil Right Act.

The Council may enact resolutions to waive any immunity from suit or execution subject to the terms of this section. A resolution waiving any immunity from suit or execution shall be passed by an affirmative vote of at least four (4) Council members, and evidenced by a written document contemporaneously signed by Council members voting in favor of passage. Any resolution waiving any immunity from suit for claims by a non-governmental entity over $50,000 in value, or claim by any entity seeking execution against tribal lands, shall be approved by an affirmative vote of 75% of the resident tribal members over 8 years of age. The Council shall not enact any waiver of immunity for

claims by a governmental entity, except for the purposes of satisfying the conditions or requirements of a grant, contract or compact, which are generally applicable.

Waivers of immunity shall not be general, but must specify the parties who may bring an action against the Tribe, duration for bringing a cause of action, the amount of funds or other property upon which execution may be had, the nature of the transaction giving rise to claims, and any other limitations deemed appropriate by the Council. Upon adoption of this Constitution, all prior waivers of immunity to suit or execution of the Alakanuk Tribe shall be void, unless claims arising under such waivers comply with this section. This section shall be strictly construed and ambiguities as to the terms of any waivers shall be construed in favor of finding immunity of the Tribe.

ARTICLE 14 – AMENDMENTS OR REPEAL

This Constitution may be amended or repealed by a majority vote of the qualified voters of Alakanuk Tribe voting in an election called for that purpose, provided that at least 75% of the resident tribal voters of Alakanuk, vote in such election, and that notice has been posted for a minimum of four (4) weeks in public places in Alakanuk, according to Article 6, Section 3 of this Constitution.

ARTICLE 15 – SEVERABILITY

If any provision of this Constitution shall, in the future, be declared invalid by a court of competent jurisdiction, the valid provision shall be served and the remaining provisions shall continue in full force and affect.

ARTICLE 16 – SAVINGS

Unless inconsistent with this Constitution, all tribal legislation enacted prior to adoption of this Constitution shall remain in effect.

ADOPTION

This Constitution shall be adopted by a majority vote in an election called for that purpose and held in Alakanuk. Notice shall be posted in public places for at least two (2) weeks under Article 6, Section 3 of this Constitution. As required by the Constitution of the Native Village of Alakanuk, at least 30% of the adult resident tribal member voters shall vote at such election.

CERIFICATE OF ELECTION RESULTS

The attached Tribal Constitution of the Alakanuk Tribe was submitted to the qualified voters of the Alakanuk Tribe on October 1, 2002, and was duly (adopted) (rejected) by a vote of 46 for and 15 against the adoption of this Constitution in an election in which at least 30% of the adult resident tribal members cast their ballots, as required by the tribal constitution which this document replaces.

Election Committee Member Signature Laura C. Patrick

Election Committee Member Signature Tina K. James

Alakanuk Tribal Council:

Paul P. Ayunerak Sr
President

Max Agayar
Vice President

Secretary

Vanessa Damian
Member

Paul M. Pleasant Sr
Member

Marcel B. Isaiah Sr
Member

Member